

APPLICATION NO. 10/033,862

REMARKS

Favorable reconsideration of this application as presently amended is respectfully requested. Claims 1-82 are pending. Of the pending claims, claims 7-19, 21-28, 32, 34, 35, and 46-69 have been withdrawn from consideration. In this Amendment, claim 1 is amended and claims 72-82 are newly added. No new matter is added.

Support for the amendment to claim 1, 73 and 77 is found in US Patent No. 4774907 which is incorporated by reference in its entirety at page 6, lines 20-21 of the specification, as well as in the originally filed drawings. Support for claim 72 is found in the specification at page 5, lines 13-15.

Applicant thanks the Examiner for the courtesies extended to Applicant's representative, Sheldon H. Parker, during a January 12, 2005 telephone interview and the March 28, 2005 interview with the examiner and supervisory examiner in which the outstanding rejection was discussed. Applicant's separate record of the substance of the interview is contained in the comments below.

In the interview, the Examiner and Mr. Parker discussed the Brazzell reference (US Patent No. 3752121). The Examiner focused on Brazzell's disclosure that "[I]f the artificial grass is a shredded plastic or paper material, it may be flocculated or woven onto a perforated non-absorbent sheet 32 which may be coated with an adhesive for holding the shredded artificial grass particles 31 in place." Applicant points out that the shredded material is not fused to itself but to the sheet 32 to hold the artificial grass in place, thus the material of Brazzell does not encompass the nonwoven set forth and claimed in the present invention. The examiner indicated that the term nonwoven can be viewed as an adjective rather than as a noun. Applicant indicated that this reading of the term would be inconsistent with the specification, in which nonwoven is used to describe a class of structures. The claims have been revised to emphasize that the term nonwoven describes a product classification and thus would not be inclusive an any structure that is not woven, such as wood, molded plastics and water.

McCrriam-Webster Online Dictionary defines "nonwoven" as "made of fibers held together by interlocking or bonding (as by chemical or thermal means):not woven, knitted

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or felted.” The dictionary definition is consistent with the definition in Applicant’s issued US Patent No. 4774907, which is incorporated by reference in present case, which says nonwoven is “formed of strands randomly fused together at their intersections... The process used to form the nonwoven can be any of the known processes, such as dry formed, wet formed, melt blown, thermal bonded, etc., however the spunbonded and spunlaced tend to come closest to meeting the criteria of the instant invention.” It is clear from applicant’s definition that the term nonwoven is not merely describing a class that excludes wovens, but rather, is a structure in which is formed of strands randomly fused together at their intersections.

Merriam Webster Online Dictionary defines “fused” as: “to blend thoroughly by or as if by melting together 3 : to stitch by applying heat and pressure with or without the use of an adhesive; *intransitive senses* 1 a : to become fluid with heat b *British* : to fail because of the blowing of a fuse 2 : to become blended or joined by or as if by melting together. Applicant emphasizes that “fused” as used in the present invention does not necessarily require melt bonding, but rather is inclusive of nonwovens that have been spunbonded, spunlaced, dry formed, wet formed, melt blown, thermal bonded, etc.

Applicant respectfully submits that the term “those skilled in the art” is applicable in the instant situation. The following definitions are quoted from the Dictionary of Textile Technology, copyright 1989, 1990 by Hoechst Celanese Corporation. These definitions are used and recognized by those in the textile industry and would be considered to set forth the common ground definitions.

Highloft is a “[G]eneral term for a fiber structure containing more air than fiber. Specifically, a lofty, low-density nonwoven structure that is used for application such as fiberfill, insulation, health care, personal protection and cleaning materials.”

Nonwoven fabric is defined as an “assembly of textile fibers held together by mechanical interlocking in a random web or mat, by fusing of the fibers (in the case of thermoplastic fibers), or by bonding with a cementing medium such as starch, glue, casein, rubber, latex, or one of the cellulose derivatives or synthetic resins. Initially, the fibers may be oriented in one direction or may be deposited in a random manner. This web or

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sheet of fibers if bonded together by one of the methods described above. Normally, crimped fibers that range in length from 0.75 to 4.5 meters are used.”

Applicant asserts that entangled raffia, shredded paper or plastic strips is not within the definition of nonwoven either in accordance with Yananton (incorporated by reference) or the Merriam-Webster dictionary. In addition the high loft nonwovens are a distinct class of nonwovens well known to those in the nonwovens industry and vastly distinct in structure and function from shredded plastic, raffia, or paper strips. The high loft nonwovens of the present invention must have an open cell like structure as shown in the figures to entrap particles as described and claimed in the present invention. These open cells are formed because the strands are randomly fused together at their intersections and the product is a high loft as compared to a compressed or flat structure such as paper or plastic. The Examiner asserts that raffia is comprised of fibers and can be non-woven. While Applicant acknowledges that raffia is a fiber, Applicant is not aware of non-woven raffia structures. Applicant requests that the Examiner provide an affidavit or documentation setting forth a nonwoven raffia structure. It is also noted that Brazzel does not teach, disclose or suggest the use of a nonwoven of raffia or any other fiber.

Mr. Parker suggested adding the limitation “fibrous or filamentous” to the claims to define over shredded materials. The Examiner said her inclination would be to look favorably on that amendment, but she would need to check with her supervisor. In a later phone conversation with Applicant’s representative, Kimberly O. Snead, on March 10, 2005, the Examiner indicated that the Applicant should further clarify the term “nonwoven” in the claims by adding some sort of language regarding entangled, fused, or bonded fibers.

Claim 1 as amended more clearly claims a high loft non-woven top layer that is comprised of filaments or fibers that receive and entrap particles wherein the randomly fused intersecting filaments or fibers form the non-woven. The cited reference, Brazzell, only describes using an artificial grass type of material to line on top of an absorbent sheet to line a tray. Specifically, Brazzell teaches at column 2, lines 54-57 that “[T]his artificial grass layer 31 may be made of raffia, shredded paper, shredded plastic, or other material of similar texture, or it may be a woven fabric with a nap such as plastic artificial grass...”.

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Shredded materials, raffia, and other similar materials do not encompass the filamentous or fibrous high loft nonwovens described and claimed in the present invention. As set forth above, those skilled in the art define "nonwoven" as interlocked or fused fibers. The materials of Brazell are not fibers fused with one another. In fact, Brazell describes quite the opposite, namely at column 2, lines 63-66, "If the artificial grass is a shredded material, it may be flocculated or woven onto a perforated non-absorbent sheet 32 which may be coated with an adhesive for holding the shredded artificial grass particles 31 in place." Therefore, Brazell does not teach or suggest using a high loft non-woven layer to entrap particles claimed by claim 1. On the contrary, Brazell teaches away from the current invention by disclosing only a pad of artificial grass or shredded material adhered to a backing (not to each other), which drains into an absorbent pad that absorbs urine. Accordingly, applicant asserts that claim 1 is patentable over Brazell.

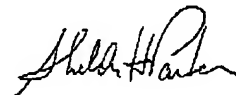
Claims 2-6, 20, 29-31, and 33 depend directly or indirectly from claim 1, and, accordingly, include all of the patentable features of claim 1 as well as other patentable features. Therefore, claims 2-6, 20, 29-31, and 33 are patentable over Brazell for at least the reasons discussed above with respect to claim 1. Claim 72 is patentable as it simply more clearly defines the "cling enhancing substance" of claim 2 as recited at page 5, lines 13-15 of the specification.

If the Examiner has any questions or concerns regarding the present response, the Examiner is invited to contact Sheldon Parker at 703-593-2041.

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In view of the foregoing, it is respectfully submitted that this application is in condition for allowance, and favorable action is respectfully solicited.

Respectfully submitted,



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